

**EXAMINER'S AMENDMENT**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 10, 2009 in which claims 39-41 were amended has been entered.
2. Claims 39-49 are now allowed, subject to the examiner's amendment set forth below. In accordance with 37 C.F.R. 1.126, allowed claims 39-49 will be renumbered as claims 1-11, respectively (see MPEP 608.01(j)). However, original claim numbering is employed in the examiner's amendment.
3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Peter G. Foiles on September 21, 2009.

4. **The application has been amended as follows:**

a) **Amend claim 39** as follows:

39. An isolated nucleic acid molecule comprising a lambda *att* recombination site wherein the ~~the~~ [[a]] sequence of the seven base pair overlap region within the fifteen base pair core region is ATTATAC.

b) **Amend the first paragraph of the specification** as follows:

The present application claims the benefit of the filing dates of U.S. Provisional Application Nos. 60/122,389, filed March 2, 1999, 60/126,049, filed March 23, 1999, and ~~60/136,784~~ 60/136,744, filed May 28, 1999. The present application is also related to U.S. Application Nos. 08/486,139, filed June 7, 1995 (now abandoned), 08/663,002, filed June 7, 1996 (now U.S. Patent No. 5,888,732), 09/005,476, filed January 12, 1998 (now U.S. Patent No. 6,171,861), 09/177,387, filed October 23, 1998 (now abandoned), 09/233,492, filed January 20, 1999 (now U.S. Patent No. 6,270,969), 09/233,493, filed January 20, 1999 (now U.S. Patent No. 6,143,557), 09/296,280, filed April 22, 1999 (now U.S. Patent No. 6,277,608), 09/296,281, filed April 22, 1999 (now abandoned), 09/432,085, filed November 2, 1999 (now U.S. Patent No. 7,304,130), and 09/438,358, filed November 12, 1999 (now U.S. Patent No. 6,964,861). The disclosures of all of the applications cross-referenced above are incorporated by reference herein in their entireties.

c) **Amend the title** as follows:

Compositions ~~and methods~~ for use in recombinational cloning of nucleic acids

***Summary of the interview concluding September 21, 2009***

5. On 9/16/09, the examiner left a message for applicant's representative and FAXed a draft proposal that would place the application in condition for allowance. The examiner indicated that she had proposed a minor change to claim 39 to ensure that the structure of the molecules being claimed was clear. The examiner also noted that she had been unable to consider 3 non-English documents in the July 2009 IDS because no translation or statement of relevance had been provided. The examiner and applicant's representative spoke briefly on 9/16/09 and again on 9/21/09, at which time applicant's representative authorized the amendment, and acknowledged that the 3 documents (C33, C40-C41) had not been considered by the examiner and would be lined through on the 1449 transmitted with the Notice of Allowability. Applicant's representative indicated that other English language documents related to at least one of the foreign language documents had been considered by the examiner.

***Drawings***

6. It is noted that the drawings filed November 6, 2000 have been accepted by the examiner.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diana B. Johannsen whose telephone number is 571/272-0744. The examiner can normally be reached on Monday and Thursday, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James (Doug) Schultz can be reached at 571/272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diana B. Johannsen/  
Primary Examiner, Art Unit 1634